IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Ram Rakh Vyas Vs. Union of India & Ors.
D.B. CIVIL WRIT PETITION (PIL) NO.2258/2007

Writ Petition
under Article 226 of the Constitution of India

DATE OF ORDER :: 17th April, 2007.

PRESENT

HON'BLE MR.JUSTICE S. P. PATHAK
HON'BLE MR.JUSTICE D.N. THANVI

Mr. M.C. Bhoot for petitioner.

BY THE COURT (PER HON'BLE PATHAK,J):

By this writ petition (PIL) under Article 226 of the Constitution, the petitioner, who is a practicing lawyer and claims himself to be a social worker keeping keen interest in the welfare of the citizens and problems of public in all fields, is very much concerned about the shifting of present High Court and construction of new building for High Court at Jhalamand village, District Jodhpur

In the petition, it is stated that His Excellency the President of India, after coming into force the State Reorganization Act, 1956 (for short, hereinafter referred to as the Act of 1956), in exercise of powers conferred by sub-sec. (1) of Sec.51, notified in the Gazette of India, the place of principal seat of Hon'ble Rajasthan High Court at Jodhpur, which was published in the Gazette of India extraordinary Part II Section 3 on October 30, 1956 (Ex.1). It is stated that the High Court of Judicature for Rajasthan was established under the provisions of the Rajasthan High Court Ordinance, 1949 and it started functioning from 29th August, 1949 and since then the Hon'ble High Court and all its subordinate courts at Jodhpur are functioning in one compound and there is a united bar of the lawyers named as Rajasthan High Court Advocates Association, Jodhpur. It is also stated that the strength of the High Court Judges, Judicial Officers and the lawyers has increased immensely in past so also the litigation and because of sea-change, there is shortage of accommodation in the High Court building as well as in subordinate court buildings in respect of which the matter is pending consideration since 2001 but uptil now the Bar and Bench jointly did not consider it by constituting

a committee consisting of equal number of members from the Bar and the Bench. However, suddenly a news was flashed in the newspapers mentioning that the Urban Improvement Trust, Jodhpur sent a proposal to allot the land for Hon'ble High Court in village Jhalamand on bye-pass road and on account of this news, the lawyers and general public raised voice and when Chief Minister was at Jodhpur on 4th November 2006, a representation (Annex.5) was submitted by the lawyers on 4th November 2006. According to the petition, before taking any decision in respect of construction of a new building at Jhalamand, following important aspects of the matter require consideration by this Court:

(1) Whether the present historical building can be renovated and improved in such a way that an antique building of the High Court can be utilized in better way and renovation can be carried out to meet the necessity of next 50 years.

(2) Buildings for subordinate courts are so constructed in a systematic way that every subordinate court has adequate space and all facilities for presiding officers, lawyers and staff.

(3) To convert the entire compound into a judicial institution only by removing the executives and other officers.

(4) In case it is not possible to renovate and improve the situation then what should be the criteria for selecting a most appropriate and suitable site for construction of new High Court building and subordinate court buildings, lawyer chambers and other necessary buildings so as to provide all facilities to the Judge, Judicial Officers, Lawyers and the staff.

(5) For all this, how much land is required and how it will be utilized so that no organ of the judicial fraternity will have any voice to raise.

(6) Planning construction so as to make it more appropriate and suitable for smooth working of the judicial courts.

The petition further states that in the year 2003 when the matter of shifting of High Court building became public then number of advocates met the then Chief Justice on 5th September 2003 and a meeting was also called on 6th

September 2003 by the then Chief Justice of the Judges and the members of Bar. It is also stated that one of the Advocates viz., Advocate Mr. M.C. Bhoot also sent a letter dated 12th September 2003 to the Hon'ble Chief Justice stating therein the difficulties and the apprehensions regarding the new place for High Court building and the matter came up for consideration before the then Hon'ble Chief Justice Shri Anil Dev Singh, however, till date the matter could not be finalized. In the representations submitted vide Ex.2, 3, 4, & 5 it is stated that the site at Jhalamand is not suitable and infact the land in front of Circuit House, Jodhpur is more suitable. The reasons, apprehensions, suggestions and opinion given in Ex.2 more or less have been reiterated in other representations, which are reproduced below:

> 1. जोधपुर शहर एक "हेरीटेज सिटी" है जिसकी अपनी एक संस्कृति है जिनकी गरिमा कायम रखना आवश्यक है। उच्च न्यायालय का भव्य भवन एक ऐतिहासिक भवन होगा अत: ऐसी जगह पर नहीं होना चाहिये जो जोधपुर सिटी में सबसे नीची जगह (लो लेवल) पर हो। ऐसा होने से भवन की गरिमा ही नहीं नगर की गरिमा भी गिरेगी।
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> 2. जोधपुर नगर की भौगोलिक स्थिति व स्लोप को देखते हुये पाली रोड वाली जमीन सबसे नीचे जाती हैं व मुख्य नगर से पूरी एक कौने में चली जाती है, जबकि सर्किट हाउस के सामने वाली जमीन शहर की उचाई के साथ उचाई पर स्थित है जहाँ पर भव्य भवन की खुबसूरती व गरिमा तो बढेगी ही जोधपुर नगर की गरिमा भी बडेगी व एक देखने लायक भवन होगा।

3. पाली रोड वाली जमीन का सी लेवल सर्किट हाउस के सामने वाली जमीन के सी लेवल से बहुत कम है। जोधपुर नगर की ढलान व भौगोलिक स्थिति को देखते हुये पाली रोड वाली जमीन पर वर्षात के दिनों में परिसर में पानी भर जाने का खतरा हमेशा रहेगा जबकि सर्किट हाउस के सामने वाली जमीन पर कितनी भी वर्षात होने पर भी पानी रूक नहीं सकता।

उपरोक्त स्थिति में सिवरेज व्यवस्था में भी सदैव समस्या व परेशानी पैदा होगी जबकि सर्किट हाउस के सामने वाली जमीन पर इस प्रकार की समस्या कभी भी पैदा नहीं होगी।

4. जोधपुर में महत्वपूर्ण सैनिक हवाई अड्डा हैं व इसके आगे भारतवर्ष की बाडमेर सीमा से पहले उत्तरलाई का सैनिक हवाई अडडा है। भौगोलिक स्थिति से यह जमीन ऐसे जॉन में आती है जहॉ पर वायु सैनिक अभ्यास व अन्य कार्यों से सदैव ध्वनि प्रदूषण व अशान्त ऐरिया रहेगा। भारत व पाकिस्तान के विवाद को देखते हुये यह क्षैत्र असुरक्षित हो सकता है जबकि सर्किट हाउस के सामने वाली जमीन इन सभी असुविधाओं व ,खतरों से पूर्ण रूप से मुक्त एवं सुरक्षित है व भविष्य में रहेगी। सैनिक हवाई अडडे का विस्तार होने पर पाली रोड वाली जमीन सैनिक हवाई अडडे के नजदीक आ जायेगी।

5. पाली रोड वाली जमीन का सी लेवल नीचे है, भौगोलिक स्थिति से नदी व नाले नजदीक पडते है जिससे सिपेज की समस्या सदैव बनी रहेगी। भूतल बनने पर भूतल में सिपेज से पानी आने की समस्या रहेगी। जोधपुर शहर में लो लेवल वाले स्थान पर भूतल में पानी भरने की समस्या आज भी मौजूद है। जबकि सर्किट हाउस के सामने वाली जमीन इस समस्या से पूर्ण रूप से मुक्त है व सदैव मुक्त रहेगी।

6. पाली रोड वाली जमीन हाई-वे के नजदीक है व उस तरफ औद्योगिक क्षैत्र के विस्तार होने की भी संभावना अधिक है। जिससे वायु प्रदूषण व जल प्रदूषण बढेगा जबकि सर्किट हाउस के सामने वाली जमीन भविष्य में भी इन समस्याओं से मुक्त रहेगी।

7. जोधपुर शहर चारों तरफ फैल रहा है। पाली रोड वाली जमीन इस फैलाव को देखते हुये शहर के एक कौने में आयेगी जबकि सर्किट हाउस के सामने वाली जमीन मध्य क्षैत्र में होगी। अस्पताल, रेल्वे स्टेशन, बस स्टेण्ड की स्थिति को देखते हुये सर्किट हाउस के सामने वाली जमीन एक उचित स्थान है।

8. भव्य एवं ऐतिहासिक भवन सदैव उचाई पर ही बनते हैं व बनने चाहिये अन्यथा उनकी गरिमा पर विपरीत असर पडता है। राष्ट्रपति भवन भी उचाई पर बना हुआ है। माननीय उच्चतम न्यायासलय का भवन भी उचाई पर लाने के लिये प्लीन्थ लेवल उचा किया गया है। पाली रोड वाली जमीन की जो स्थिति है वहॉ पर प्लीन्थ लेवल उचाई पर नहीं लाया जा सकता है क्योंकि उसका सी लेवल बहुत कम है। जबकि सर्किट हाउस के सामने वाली जमीन अपने आप में

ऐसी स्थिति में है कि जहॉ पर भव्य भवन बनने से भवन सुरक्षित, सभी समस्याओं से मुक्त है व उसकी खुबसूरति निखरेगी।

आग्रह:-

1. माननीय उच्च न्यायालय में लम्बित महेन्द्र लोढा की जनहित याचिका में दो वर्ष पहले उच्च न्यायालय परिसर हेतु जमीन देखने का सिलसिला शुरू हुआ था उस वक्त राजस्थान हाई कोर्ट एडवोकेट ऐसोसियेशन, जोधपुर द्वारा सर्किट हाउस के सामने वाली जमीन बाबत ही प्रस्ताव लिया जा चुका है।

2. जोधाणा जोधपुर नागरिक सोसायटी, जिसके अध्यक्ष पूर्व महाराजा श्री गजसिंह जी हैं, माननीय मुख्य मंत्री एवं मुख्य सचिव को लिखित में आग्रह कर चुके है कि उच्च न्यायालय परिसर के लिये सिर्फ सर्किट हाउस के सामने वाली जमीन को ही चुना जाये। जोधपुर की आम जनता से जुडी हुई करीब करीब सभी सामाजिक संस्थाये व अन्य संगठन भी यही राय प्रकट करते आ रहे हैं कि उच्च न्यायालय की गरिमा योग्य यदि कोई जमीन हो सकती है तो वह सर्किट हाउस के सामने वाली जमीन ही हो सकती है। सभी प्रकार से यही आग्रह है कि उच्च न्यायालय के भव्य भवन के लिये सर्किट हाउस के सामने वाली जमीन ही एक मात्र स्थान है इसका कोई विकल्प नहीं है।

संभावित आशंकाये:-

1. अधिवक्तागण में बहूमत पाली रोड वाली जमीन के लिये तैयार नहीं है व स्पष्ट आपत्ति को देखते हुये पाली रोड वाली जमीन के विरोध में काफी अधिवक्तागण आन्दोलन तक जाने की तैयारी कर रहे है।
2. जोधपुर की आम जनता ने समाचार पत्रों के माध्यम से यह विवाद जैसे ही उजागर हुआ कई संस्थाये पाली रोड वाली जमीन के विरूद्ध आवाज उठाने लगी है व जन-आन्दोलन तक करने के लिये मानस बनाये हुई है।

विनम्र राय:-

मौजूदा राजस्थान उच्च न्यायालय भवन के मौलिक रूप को यदि कायम रखते हुये सम्पूर्ण न्यायालय परिसर वाले प्रशासनिक कार्यालय व बैक हटाकर भव्य भवन का रूप जो आधुनिक सुविधाओं से परिपूर्ण हो नहीं बनने की स्थिति में सर्किट हाउस के सामने वाली जमीन का ही चयन किया जाना हर दृष्टि से उचित होगा।

उपरोक्त परिस्थितियों में विशाल भवन की भव्यता उपयोगिता व सुरक्षा के मुकाबले जमीन की कीमत को कोई महत्व न फरमावे।"

It is also stated in the petition that an application (Ex.6) was moved under Sec.6 of the Right to Information Act, 2005 in the High Court on 09.11.2006 but no information has been supplied and it has been informed that no rules have been framed in light of the Right to Information Act, 2005. It is also stated that letter (Ex.7) of UIT, Jodhpur in relation to the land also shows that construction of the new building for High Court is to be raised in village Jhalamand.

In the above circumstances, the petitioner has sought the relief that a writ, order or direction in the appropriate nature may kindly be issued and the respondent No.2 may kindly be directed to place before this Hon'ble Court the entire correspondence and the entire file on the subject, and the allotment of the land at Jhalamand bye-pass as mentioned in the letter dated 20th Oct., 2006 of the UIT, Jodhpur in favour of the respondent, may kindly be quashed and an appropriate writ, order or direction may be issued for constitution of an appropriate committee of technical members and equal number of members from the Bar and the Bench to take a considered decision on the

points submitted.

An additional affidavit has also been filed by the petitioner and along with the affidavit, site plan (Ex.8) showing the disputed land and a news cutting (Ex9) containing news article dated 14.04.2007 published in Rajasthan Patrika on 15th April, 2007 (Ex.9) has also been submitted. It is stated in the additional affidavit that the proposed place where the new building for High Court is to be constructed is near a bye-pass road. The news cutting shows that 100 bigha more land has been demanded by the High Court administration so that subordinate courts may also be established near the land in question and other facilities may be provided. This news cutting furthers says that High Court administration also informed that the Bar Association is also of the opinion that the High Court along with subordinate courts should be constructed at one place in one compound.

The contention of the learned counsel for the petitioner is that since Jhalamand is a village, which is not in the municipal limits of Jodhpur, therefore, in view of

notification published in the Gazette of India vide Ex.1, new High Court building cannot be constructed outside the municipal limits of Jodhpur. It has also been contended that since it is a matter concerning all and will also involve lot of money, therefore the matter requires to be thoroughly examined by a Committee having equal number of members from Bar and the Bench and suitability of the site is required to be tested in a scientific manner taking into consideration the objections raised in the representations. It is also contended that the place where a new building for the High Court is to be constructed, that area is at the lowest sea level of the city and is not a suitable place for construction of new building for High Court. It is also the contention of the learned counsel that the matter is pending since 2003 and uptil now nothing has been done and when huge government money is going to be spent then it was all the more essential to have considered the matter taking into consideration the objections submitted by the petitioner and other Advocates of the Bar. It has also been submitted that the proposed site for construction of new High Court building is apparently not suitable for the reason that there will be environment and noise pollution; firstly because it is

at the lowest sea level and it is an admitted fact that the disputed site was technically held to be more suitable for sewerage treatment plant etc., and secondly on account of defence installations and the airport being in the near vicinity of the disputed site there will be constant nuisance. It has also been submitted that Jodhpur is an heritage city and there are plenty of other good buildings and the present project being also a prestigious project on which crores of rupees will be spent, therefore, for the above reasons, the site, which has been chosen at Jhalamand, cannot be said to be a suitable site. The learned counsel in support of his submissions has taken us through various provisions of Acts viz., the Urban Improvement Trusts Act, the Rajasthan Municipalities Act, 1959, the Works of Defence Act, 1903, the State Re-Organization Act, 1956, Environment Protection Act, 1986, the Aircrafts Act, 1934 and Right to Information Act, 2005 as well as through the Noise Pollution (Regulation & Control) Rules, 2002.

We have considered the submissions made before us and carefully perused the material available on the file.

In view of submissions made before us, following points require consideration in this matter:

(1) Whether there is acute need and time demands to construct a new building for High Court at a different place than the present one looking to the paucity of place/accommodation and the facilities necessary for the smooth functioning of a High Court?

(2) Whether in view of notification published in the Gazette of India (Ex.1), construction of court building in village Jhalamand is legally not permissible as the disputed site is not within the municipal limits of Jodhpur?

(3) Whether the representations from 2003 to 2006 in the matter suggesting the land in front of Circuit House, Jodhpur, is available to the Govt. for allotment?

(4) Whether in view of non-furnishing any reply to the application submitted vide Ex.7, the writ petition is liable to be admitted?

(5) Whether the petitioner is entitled to any interim

relief restraining the respondents from taking over possession of the disputed land and/or laying foundation stone for the project of High Court building at Jhalamand?

(6) Whether there is any merit in the petition, which seeks to quash the allotment of land made at Jhalamand, mention of which has been made in the letter of U.I.T. dated 20th October 2006 (Annex.7)?

Now, we propose to examine the points framed by us.

Point No.1:

It is to be seen that Rajasthan High Court was established on 29th August 1949 at Jaipur under Article 214 of the Constitution and after integration of the State of Rajasthan, the permanent seat of the Rajasthan High Court was shifted from Jaipur to Jodhpur on the recommendations made on 1st of November, 1956. Protest was made against this shifting of the seat of the High Court, however, ultimately despite all the oppositions, the High Court of Judicature for Rajasthan started functioning at Jodhpur in

the year 1958 and since then it is functioning in the present building. It cannot be denied that in these 49 years the litigation has increased tremendously and the strength of judges has also increased but the place where the present High Court building situate and the subordinate courts are functioning, remains as it is and presently the position is that even the Judges of the High Court are not having court rooms and chambers. It shall also be pertinent to note that the High Court has taken the building of District Court for its use and now the District Court is functioning in newly constructed building but then also the shortage of accommodation persists. The staff members in the courts have increased so also the litigant public and there is lot of work pressure but not sufficient place to accommodate them for smooth functioning of the daily business of the Courts which is evident from even the non-availability of court rooms and chambers to the Hon'ble Judge of the High Court. As such, it can well be concluded that there is lack of space in the High Court building and the present building of the High Court is not sufficient to meet the requirements for smooth functioning of the High Court. It is further to be seen that as per the averments made in the petition, it

appears that since 2001 the matter is hanging aloof and remains pending consideration though there had been meeting of the Advocates and Judges but still no finality has been arrived at in the matter. The time is passing fast without waiting for anyone and presently, the land on which the new building is to be constructed, by lapse of time may also skip and may not be available in future for the purpose. In the changed circumstances and on these facts, it cannot be denied that in past there has been immense increase in litigation and the strength of the Judges of High Court so also there has been increase in the subordinate judiciary substantially. It is also a fact that some of the courts are working in verandah because of non-availability of court rooms etc. then it is inevitable that the view, which has been expressed in the representations that present High Court building should remain where it is presently functioning or in alternate all other offices functioning in the present High Court compound should be shifted elsewhere, is not tenable because even that will not cope up with the requirements of the High Court which is presently heavily crowded and even the lawyers attending the court cases do not find sufficient space in the courts

while waiting for their turn to attend their cases. Since it is not possible to continue in the present premises even by shifting the other offices somewhere else, the construction of a new court building for the High Court at a different place has become absolutely necessary. It cannot be lost sight that the new building for the High Court shall be constructed keeping in mind its usefulness for next 50 to 100 years. It is not correct that shifting of the High Court building from the present place to other place may cause inconvenience to lawyers, litigants and others on account of distance of the place of proposed new High Court building, which is between 10 to 12 kms from the present premises.

In view of above discussion, answer to point No.1 is that there is dire need to shift the High Court from present place to a different place.

Point No.2:

The contention of the learned counsel for the petitioner cannot be countenanced that since the place in question i.e. Jhalamand is outside the municipal limits of Jodhpur, therefore in view of Gazette Notification (Ex.1)

dated 27th October 1956 published in the Gazette of India on 30th October, 1956, the place of High Court should not be shifted to village Jhalamand. The learned counsel, in support of his contention has taken us through various provisions of Constitution of India particularly Article 243 of the Constitution and through the provisions of Municipal and U.I.T. Acts to show that in terms of Notification Ex.1, Jhalamand cannot be treated to be a place within Jodhpur municipal area and if that is so, then High Court building is not liable to be constructed at village Jhalamand and if it is done, it offends the Gazette Notification Ex.1.
To appreciate the contention of the learned counsel, Ex.1 is being reproduced below:

The Gazette of India
EXTRAODINARY
PART II – Section 3
PUBLISHED BY AUTHORITY

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No.321 NEW DELHI, TUESDAY, OCTOBER 30, 1956

MINISTRY OF HOME AFFAIRS
NOTIFICATION
New Delh-2, the 27th October, 1956

S.R.O.2514.- In exercise of the powers conferred by sub-section (1) of section 51 of the States Reorganisation

Act, 1956 (37 of 1956), the President hereby directs that the principal seat of the High Courts for the new States mentioned below shall be at the place mentioned against each state.

New State	Principal seat of the High Court
Bombay	Bombay
Madhya Pradesh	Jabbalpur
Punjab	Chandigarh
Kerala	Ernakulam
Mysore	Bangalore
Rajasthan	Jodhpur

[No.11/47/56-Judl.I.]

A perusal of the above notification shows that His Excellency the President of India, in exercise of powers conferred by sub sec.(1) of Sec.51 of the State Reorganisation Act, 1956 (37 of 1956), acknowledged the principal seat of the High Court for Rajasthan at Jodhpur. This notification nowhere states that the principal seat should be in the municipal limits of Jodhpur. It cannot be denied that the place Jhalamand where new building for the High Court is to be constructed is only at a distance of 10 to 12 kms from the present seat of High Court. Therefore, the argument of the learned counsel is misconceived that the proposed place for new High Court building is outside the municipal limits of Jodhpur and same requires to be

rejected out-rightly more so when it is well within the limits of the UIT, Jodhpur.

In view of above discussion, answer to Point No.2 is that there appears no violation of Ex.1 in changing the place of High Court from present building.

Point No.3:

The contention of the learned counsel that near the Circuit House, Jodhpur, plenty of land is available, is of no consequence for the simple reason that on previous occasions when possibility of getting the suggested land near Circuit House for High Court building was examined then it was revealed that the entire land is under litigation and allegedly belong to private persons and not of the Govt. and that it was not possible for the State Govt. to make available the land suggested. It is also a matter of consideration that since last 6 years, as per the averments made in the petition, no decision has been taken and gradually the possibility of getting land near to the present High Court building is becoming dim day by day. Therefore,

presently the place where the new building for the High Court is to be constructed appears to be in the fitness of things. The contention of the learned counsel that it is at the lowest sea level and because of the airport it is not proper to spend a huge amount in constructing a new building at Jhalamand is also of no significance for the simple reason that no material whatsoever has been produced to support the contention. The distance of construction site for new building of High Court at Jhalamand is nearly 10 to 12 kms from the present High Court building, therefore, it cannot be said that it is too far a place which in all circumstances should be avoided and if the new building for High Court is constructed at Jhalamand then it will cause immense difficulties to the advocates and litigating public for all times to come. Looking to the increase in litigation, increase in the strength of Judges and also looking to the increase in the subordinate judiciary, no option is left but to shift the High Court to a new place where the requirements for proper functioning of the court is met with. The answer to the point framed is accordingly.

Point No.4:

The contention of the learned counsel is that under Sec.6 of the Right to Information Act, an application was moved in the High Court to which no reply has been given and no information has been furnished, which shows that the High Court never wanted to supply the information and that is why the record in this case has purposely been withheld, therefore the record of the High Court should be called. We have considered the submission and we are of the opinion that in the instant case, a perusal of the provisions of Rajasthan Right to Information Act reveals that in case an application is made in relation to information sought before the authorities mentioned in the Act, then that application is required to be disposed of. It also appears that under the deemed provision, in case, within a period of 30 days no reply is received then procedure prescribed to challenge the grievance by way of filing an appeal may be adopted. The Act provides complete procedure to seek the remedy, therefore, the contention that the High Court after filing the application (Annex.7) supplied no information, therefore, the petition requires admission and the record of the case is also to be called,

cannot be a ground to entertain this petition and to call for the record and we answer the point accordingly.

Point No.5:

It is to be seen that even as per the averments made in this petition termed as Public Interest Litigation, for nearly 6 years the matters could not be decided and it is high time when a decision has to be taken for shifting of High Court building, the matter cannot be left in air for indefinite period. The stage has come where the things have become stand still and it is not possible to continue with the present accommodation in the High Court. The courts are becoming crowded day by day causing inconvenience to public at large and the working atmosphere in the Courts in absence of needed space has not remained congenial. In fact, to continue with the present system of functioning of the High Court in the present building at a place which does not meet the requirements of the present day and also keeping in mind the needs of future as well, the answer to Point No.4 is that the petitioner is not entitled to any interim relief.

Point No.6:

It is to be seen that while discussing Point No.2 to 5, it has been found that shifting of High Court building from present place to Jhalamand is the dire necessity of moment and the cause, which has been tried to be espoused by the petitioner being an Advocate by profession by filing the present public interest litigation, for the reasons stated, is not of much significance. It appears that the Bar Association has not come forward by filing a petition regarding the construction of new High Court building at Jhalamand. Thus, only on the sweet will and desire of the petitioner, who happens to be an Advocate and has filed the petition under the label of Public Interest Litigation, the petition cannot be entertained. The Hon'ble Apex Court in the case of R&M Trust Vs. Koramangala Residents Vigilance Group [(2005) 3 SCC 91] has held that public interest litigation is no doubt a very useful handle for redressing the grievance of the people but unfortunately lately it has been abused by some interested persons and it has brought a bad name, therefore, the Courts should be very slow in entertaining petitions involving public interest and should

interfere only in very rare cases where the public at large stand to suffer. The Hon'ble Court said:

> This jurisdiction is meant for the purpose of coming to the rescue of the downtrodden. This sacrosanct jurisdiction of public interest litigation should be invoked very sparingly and in favour of vigilant litigant and not for the persons who invoke this jurisdiction for the sake of publicity or for the purpose of serving their private ends. It has now become common for unscrupulous people to serve their private ends and jeopardize the rights of innocent people so as to wreck vengeance for their personal ends. This has become very handy to the developers and in the matters of public contracts. In order to serve their professional rivalry they utilize the service of the innocent people or organization in filing public interest litigation. The courts are sometimes persuaded to issue certain directions without understanding the implications and given a handle in the hands of the authorities to misuse it. Therefore, courts should not exercise this jurisdiction lightly but should exercise in very rare and few cases involving public interest of a large number of people who cannot afford litigation and are made to suffer at the hands of the authorities.

The Hon'ble Court also referred to its earlier decision in the case of Balco Employees' Union (Regd) Vs. Union of India, wherein guidelines as to what kind of public interest litigation should be entertained were issued and all previous cases were reviewed. Thus, as a matter of right Public Interest Litigation petition should not be entertained

and sacrosanct jurisdiction of Public Interest Litigation should be invoked sparingly. The jurisdiction under the Public Interest Litigation is not to be exercised lightly for the reason that the wishes of few persons cannot be the wishes of public at large. In the instant case also, as appears, the matter is pending since many years and when the land has been proposed and stone laying ceremony is to take place shortly, then under the garb of public interest litigation, the relief claimed by the petitioner cannot be granted to him. The present petition, therefore, is not maintainable and the contentions raised and the law, cited to show that in an arbitrary manner the matter has been dealt with, cannot be approved. The petition requires to be dismissed summarily.

Accordingly, the answer to Point No.6 is that the writ petition is devoid of merit, therefore, liable to be dismissed summarily.

In the result, the petition stands dismissed.

(D.N. THANVI)J. **(SATYA PRAKASH PATHAK)J.**

/jpa